



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

SDMS Document



103987

AUG -9 2001

**PROMPT REPLY NECESSARY**  
**CERTIFIED MAIL: RETURN RECEIPT REQUESTED**

Chemical Land Holdings, Inc.  
Two Tower Center Boulevard, Floor 10  
East Brunswick, New Jersey 08816  
ATTN: Mr. David Rabbe, Director of Environmental Remediation

RE: Diamond Alkali Superfund Site, Passaic River Study Area  
Request for Information Pursuant to 42 U.S.C. §§ 9601-9675

Dear Mr. Rabbe:

This letter seeks your cooperation in providing information relating to the contamination of the Diamond Alkali Superfund Site in Newark, New Jersey (Site). We encourage you to give this matter your immediate attention. We request that you provide a complete and truthful response to the attached Request for Information **within 30 days** of your receipt of this letter.

As you are aware, the United States Environmental Protection Agency (EPA) is investigating the presence of hazardous substances in the sediments of the Passaic River. Under Section 104(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. Section 9604(e)(2), EPA has broad information gathering authority to determine the nature and extent of contamination of a release or threatened release of hazardous substances into the environment. EPA is seeking to obtain information related to the Passaic River that is in the possession of your Company.

While EPA seeks your cooperation in this investigation, compliance with this Request for Information is required by law. In preparing your response to this Request for Information, please follow the instructions provided in Attachment A. When you have prepared your response to the Request for Information, contained in Attachment B, please sign and have notarized the enclosed "Certification of Answers to Request for Information," and return that Certification to EPA along with your response. Please note that false, fictitious or fraudulent statements or representations may subject you to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA, 42 U.S.C. Section 9604, authorizes EPA to pursue penalties for failure to comply or for failure to respond adequately to the Request for Information.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold from EPA the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions Section in Attachment A, including the requirement for supporting your claim for confidentiality.

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

If you have information about other parties who may have information which may assist EPA in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the time frame noted above.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by our Request for Information, you must immediately turn over the additional or different information to EPA.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

Your response to this Request for Information should be postmarked or received by EPA within 30 days of your receipt of this letter. Your response should be mailed to:

Mr. Richard Winfield, Remedial Project Manager  
Emergency and Remedial Response Division - Region II  
U.S. Environmental Protection Agency  
290 Broadway, 19th Floor  
New York, New York 10007-1866

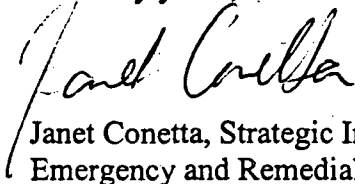
A copy of your reply should be sent to:

Ms. Kedari Reddy, Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
290 Broadway, 17th Floor  
New York, New York 10007-1866

If you have any questions regarding this Request for Information, or would like to discuss this matter with EPA, please contact Mr. Winfield at (212) 637-4362. Inquiries from attorneys should be directed to Ms. Reddy at (212) 637-3106.

We appreciate and look forward to your prompt response to this information request.

Sincerely yours,



Janet Conetta, Strategic Integration Manager  
Emergency and Remedial Response Division

Enclosures

cc: Paul Herring, Esq.  
Andrews & Kurth LLP

## **ATTACHMENT A**

### **INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION**

#### **A. Directions**

1. In answering these questions, every source of information to which you have access should be consulted, regardless of whether the source is in your immediate possession or control. All documents or other information, including records of all types of manufacturing, treatment, transportation or disposal operations, in your possession or in the possession of the company should be consulted.
2. A complete and separate response should be given for each question and subpart. Provide all documents that relate to each question. For each question contained in this letter, if information or documents responsive to this request are not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
3. Identify each answer with the number of the question and the subpart to which it responds. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the question to which it applies.
4. Provide responses to the best of your ability, even if the information sought was never put in writing or if the written documents are no longer available. Consult with all present and past employees and agents of your company whom you have reason to believe may be familiar with the matter to which the question pertains.
5. In answering each question, identify each individual and any other source of information (including documents) that were consulted in the preparation of the response to the question.
6. If you have reason to believe that an individual other than one employed by your company may be able to provide additional details or documentation in response to any question, state that person's name, last known address, phone number and the reasons for your belief.
7. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, number of pages and all recipients of the documents with their addresses.
8. If anything is omitted from a document produced in response to the Request for Information, state the reason for, and the subject matter of, the omission.
9. If you are unable to give a detailed and complete answer, or to provide any of the information or documents requested, indicate the reason for your inability to do so.
10. Sign and notarize the Certification of Answers where indicated.

11. Confidential Information The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), Section 3007(b) of RCRA, 42 U.S.C. §6927(b), and 40 CFR §2.203(b).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

- A. the portions of the information alleged to be entitled to confidential treatment;
- B. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- C. measures taken by you to guard against the undesired disclosure of the information to others;
- D. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- E. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
- F. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents, is in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

## **B. Definitions**

1. The term **"you"** shall mean the addressee of this Request for Information, the addressee's officers, managers, employees, contractors, trustees, partners, successors, assigns or agents.
2. As used herein, the terms **"Company"** or **"your Company"** refer not only to your Company as it is currently named and constituted, but also to all predecessors or successors in interest and all subsidiaries, divisions, affiliates and branches of your Company and all of its predecessors or successors in interest, including not limited to, Maxus Energy Corporation. The term **"Company"** is not limited to corporations.
3. The term **"Site"** shall mean the Diamond Alkali Superfund Site, located in the City of Newark, Essex County, New Jersey. The definition of Site includes Operable Units 1 and 2 as well as the areal extent of the contamination to which hazardous substances from the Diamond Alkali facility were transported, have or may have migrated or otherwise threaten to migrate. This definition is not limited to the Passaic River Study Area and includes the entire Passaic River, the tidal - Hackensack River, Newark Bay and its environs, plus all associated tributaries.
4. The terms **"facility"**, **"hazardous substance"**, and **"person"**, shall have the meanings set forth in Section 101(9), (14), and (21) of CERCLA, 42 U.S.C. §9601(9), (14), and (21) respectively.
5. The terms **"hazardous waste"**, **"disposal"** and **"storage"** shall have the meanings contained in Sections 1004(5), (3) and (33) of Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Sections 6903(5), (3) and (33), respectively.
6. The term **"pollutant or contaminant"** shall have the same definition as that contained in Section 101(33) of CERCLA and includes any mixtures of such pollutants or contaminants with any other substances.
7. The term **"identify"** means, with respect to a natural person, to set forth the person's name, present or last known employer, business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, occupation, position or business.
8. With respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) the term **"identify"** means to provide its full name, address, and affiliation with the individual and/or company to whom this request is addressed.
9. The term **"document"** and **"documents"** shall include any written, recorded, computer generated, or visually or aurally reproduced material of any kind in any medium in the company's possession, custody, or control or known by the company to exist, including originals and all non-identical copies.

10. The term **"arrangement"** shall include every separate contract or other agreement between two or more persons, whether written or oral.
11. The term **"material"** or **"materials"** shall include any and all objects, goods, substances, or matter of any kind, including, but not limited to, wastes.
12. The term **"release"** shall have the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, and other closed receptacles containing any hazardous substance or pollutant or contaminant.
13. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA or RCRA, in which case the statutory definitions shall apply.

## **ATTACHMENT B**

### **REQUEST FOR INFORMATION**

1. Please provide a copy of the HydroQual report referenced in CLH's letter dated June 29, 2001 which transmitted a bibliography of publications related to the report (a copy of the letter is attached).
2. According to the Passaic Rivers Restoration Initiative website sponsored by your Company, "[m]ore than \$27 million worth of environmental studies regarding the Passaic River have been conducted and there is now an enormous wealth of current, sophisticated data." *Frequently Asked Questions*, at <http://www.ppri.org>. Please provide the following:
  - a. Copies of all current and historical, draft and final, reports, studies, papers and publications related to the Passaic River which have been generated or commissioned by your Company and/or consultants. Copies should include reports, studies, data, papers and publications that have not already been provided to EPA.
  - b. Copies of all current and historical, draft and final, reports, studies, papers and publications related to the Passaic River which are in the possession of your Company and have not already been provided to EPA.
  - c. Provide all chemical, physical, biological, cultural, current and historical data collected, assembled, and/or synthesized by your Company and/or consultants regarding the Passaic River that have not already been provided to EPA.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of \_\_\_\_\_:

County of \_\_\_\_\_:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that my company is under a continuing obligation to supplement its response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or the company's response thereto should become known or available to the company.

\_\_\_\_\_  
NAME (print or type)

\_\_\_\_\_  
TITLE (print or type)

\_\_\_\_\_  
SIGNATURE

Sworn to before me this \_\_\_\_ day of \_\_\_\_ 20\_\_

\_\_\_\_\_  
Notary Public Signature



**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

**1. Article Addressed to:**

Chemical Land Holding, Esq.  
Two Tower Center Blvd, Floor 10  
East Brunswick, New Jersey 08816  
Attn: Mr. David Rabbe, Director of  
Environmental Remediation

**2. Article Number (Copy from service label)**

PS Form 3811, July 1999

**COMPLETE THIS SECTION ON DELIVERY****A. Received by (Please Print Clearly)** **B. Date of Delivery****C. Signature**

X *David Rabbe* ☐ Agent  
☐ Addressee

**D. Is delivery address different from item 1?** ☐ Yes  
If YES, enter delivery address below: ☐ No

**3. Service Type**

- ☒ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

**4. Restricted Delivery? (Extra Fee)**☐ Yes

Domestic Return Receipt

102595-00-M-0952

7000 0600 0034 1234 1026